

**IN THE UNITED STATES DISTRICT COURT
OF THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

EFREN ACOSTA

V.

L&B TRANSPORT, LLC, ET AL.

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No. 5:09CV54

ORDER

The above-referenced cause of action was referred to the undersigned United States Magistrate Judge for pre-trial purposes in accordance with 28 U.S.C. § 636. The following motion is before the Court: Plaintiff's Motion to Compel Discovery Against Defendants L& B Transport, LLC and John Lasyone (Docket Entry # 32). After ordering Defendants to file a response to Plaintiff's motion, Defendants filed a response on August 30, 2009.

Defendants assert the parties have reached agreements regarding the time and scope of the requests identified in Plaintiff's motion, and Defendants substantially produced all the documents which were in their possession and within the scope of the parties' agreements. Defendants contend the issues raised in Plaintiff's motion have been addressed, rendering the motion moot.

Plaintiff filed a reply, agreeing with Defendants that "substantially all of the matters in controversy have been resolved with the exception of the Driver Vehicle Inspection Reports (or) Pre-Trip and Post-Trip inspection reports." Plaintiff's Reply at pg. 1. Plaintiff requests that counsel for Defendants affirmatively state that no additional documents of this type exist, and that all Driver Vehicle Inspection Reports that are in existence have been produced.

Given the parties have resolved the majority, if not all, of the issues raised in Plaintiff's motion to compel, the Court is of the opinion Plaintiff's motion should be denied without prejudice to refiling. In the event Defendants do not represent to Plaintiff that no additional inspection reports

exist which have not been produced and Plaintiff still desires to raise the issue with the Court, Plaintiff may file an appropriate motion with the Court at that time. Accordingly, it is

ORDERED that Plaintiff's Motion to Compel Discovery Against Defendants L& B Transport, LLC and John Lasyone (Docket Entry # 32) is **DENIED WITHOUT PREJUDICE TO REFILING**.

SIGNED this 14th day of September, 2009.


CAROLINE M. CRAVEN
UNITED STATES MAGISTRATE JUDGE